

---

**By: Delegate Morgan**

Introduced and read first time: January 29, 1996

Assigned to: Ways and Means

---

A BILL ENTITLED

1 AN ACT concerning

2 **Education - Freedom of Information Act**

3 FOR the purpose of granting to certain students, parents, and guardians certain rights to  
4 review student records; specifying that other rights are not limited by this Act;  
5 requiring public schools and county boards of education to allow certain records to  
6 be reviewed; requiring public schools and county boards to offer copies and  
7 explanations of student records; requiring county boards to have a certain policy  
8 about student records; requiring county boards and public schools to make certain  
9 notifications; requiring the State Board of Education to adopt certain regulations;  
10 allowing a certain fee to be charged for copies of student records; specifying when  
11 student records may be disclosed; allowing a waiver of certain rights; allowing  
12 challenges to the contents of student records; allowing certain amendments to  
13 student records; requiring certain hearings; specifying when a certain statement may  
14 be added to student records and when the statement must be disclosed; requiring  
15 that a certain log of disclosures be kept; granting certain rights to custodial and  
16 noncustodial parents; defining a certain term; and generally relating to student  
17 records.

18 BY adding to

19 Article - Education  
20 Section 7-112  
21 Annotated Code of Maryland  
22 (1992 Replacement Volume and 1995 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Education**

26 7-112.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
28 INDICATED.

29 (2) "STUDENT RECORDS" MEANS INFORMATION DIRECTLY RELATED  
30 TO STUDENTS AND IDENTIFIABLE TO AN INDIVIDUAL STUDENT THAT IS  
31 MAINTAINED BY A PUBLIC SCHOOL OR COUNTY BOARD OR BY A PERSON ACTING  
32 FOR THE SCHOOL OR BOARD.

2

1 (3) "STUDENT RECORDS" INCLUDES PAPERS, CORRESPONDENCE,  
2 REPORTS, FORMS, PHOTOGRAPHS, PHOTOSTATS, FILM, MICROFILM, ELECTRONIC  
3 RECORDINGS, SOUND RECORDINGS, COMPUTER DATA, AND COPIES THAT ARE  
4 MADE, RECEIVED, OR FILED IN A CLASSROOM, SCHOOL OFFICE, OR ELSEWHERE.

5 (4) "STUDENT RECORDS" DOES NOT INCLUDE:

6 (I) PERSONNEL RECORDS;

7 (II) PERSONAL NOTES THAT ARE INTENDED SOLELY AS AN  
8 EXTENSION OF MEMORY, THAT DO NOT RESULT IN ANY INSTITUTIONAL OR  
9 ADMINISTRATIVE DECISIONS ABOUT THE STUDENT, THAT ARE NOT PART OF THE  
10 OFFICIAL RECORDS OF THE STUDENT, AND THAT ARE NOT SHARED IN ANY  
11 PHYSICAL FORM WITH A PERSON OTHER THAN A SUBSTITUTE WHO PERFORMS  
12 TEMPORARILY THE DUTIES OF THE INDIVIDUAL WHO MADE THE RECORD;

13 (III) RECORDS THAT ARE:

14 1. CREATED OR MAINTAINED BY A PHYSICIAN,  
15 PSYCHIATRIST, PSYCHOLOGIST, OR OTHER PROFESSIONAL OR PARAPROFESSIONAL  
16 ACTING IN A PROFESSIONAL OR PARAPROFESSIONAL CAPACITY OR ASSISTING  
17 ANOTHER ACTING IN A PROFESSIONAL OR PARAPROFESSIONAL CAPACITY;

18 2. CREATED, MAINTAINED, OR USED ONLY IN CONNECTION  
19 WITH PROVIDING TREATMENT TO THE STUDENT OTHER THAN REMEDIAL  
20 EDUCATIONAL ACTIVITIES OR ACTIVITIES THAT ARE PART OF THE PROGRAM OF  
21 INSTRUCTION; AND

22 3. NOT DISCLOSED TO ANYONE OTHER THAN INDIVIDUALS  
23 PROVIDING THE TREATMENT OR TO A PHYSICIAN OR OTHER PROFESSIONAL  
24 CHOSEN BY THE STUDENT, PARENT, OR GUARDIAN; OR

25 (IV) RECORDS THAT CONTAIN ONLY INFORMATION RELATING TO  
26 AN INDIVIDUAL AFTER THE INDIVIDUAL IS NO LONGER A STUDENT, SUCH AS  
27 INFORMATION ABOUT THE ACCOMPLISHMENTS OF AN ALUMNUS.

28 (B) (1) THE RIGHTS GRANTED UNDER THIS SECTION MAY BE EXERCISED  
29 BY STUDENTS WHO ARE NOT MINORS AND BY PARENTS OR GUARDIANS OF  
30 STUDENTS WHO ARE MINORS.

31 (2) A PUBLIC SCHOOL OR COUNTY BOARD MAY GIVE TO STUDENTS,  
32 PARENTS, OR GUARDIANS RIGHTS IN ADDITION TO THOSE SPECIFIED IN THIS  
33 SECTION.

34 (3) THIS SECTION DOES NOT LIMIT THE RIGHTS GRANTED UNDER TITLE  
35 10, SUBTITLE 6, PART III OF THE STATE GOVERNMENT ARTICLE.

36 (C) (1) EACH PUBLIC SCHOOL AND COUNTY BOARD SHALL GIVE STUDENTS,  
37 PARENTS, AND GUARDIANS THE OPPORTUNITY TO REVIEW THE STUDENT RECORDS  
38 OF THE STUDENT. A REQUEST TO REVIEW SHALL BE GRANTED WITHIN 45 DAYS  
39 AFTER THE REQUEST WAS MADE.

1 (2) THE RIGHT TO REVIEW STUDENT RECORDS UNDER THIS  
2 SUBSECTION INCLUDES THE RIGHT TO AN EXPLANATION AND INTERPRETATION OF  
3 STUDENT RECORDS AND THE RIGHT TO OBTAIN COPIES OF STUDENT RECORDS.

4 (D) EACH COUNTY BOARD SHALL HAVE A WRITTEN POLICY ABOUT STUDENT  
5 RECORDS, THE RIGHT TO REVIEW STUDENT RECORDS, AND THE DISCLOSURE OF  
6 INFORMATION IN STUDENT RECORDS. THE STATE BOARD SHALL ADOPT  
7 REGULATIONS TO IMPLEMENT THIS SUBSECTION.

8 (E) ANNUALLY, EACH COUNTY BOARD OR PUBLIC SCHOOL SHALL NOTIFY  
9 STUDENTS, PARENTS, AND GUARDIANS OF THEIR RIGHTS UNDER THIS SECTION, OF  
10 WHERE COPIES OF THE POLICY DESCRIBED IN SUBSECTION (D) OF THIS SECTION  
11 ARE KEPT, THAT A COPY OF THE POLICY IS AVAILABLE ON REQUEST, AND OF THE  
12 RIGHT TO FILE A COMPLAINT ABOUT A FAILURE TO COMPLY WITH THIS SECTION.

13 (F) A FEE MAY BE CHARGED FOR COPIES OF STUDENT RECORDS MADE FOR  
14 STUDENTS, PARENTS, AND GUARDIANS IF THE FEE DOES NOT SERVE TO PREVENT  
15 THE EXERCISE OF THE RIGHT TO REVIEW STUDENT RECORDS.

16 (G) STUDENTS WHO ARE NOT MINORS AND PARENTS OR GUARDIANS OF  
17 MINOR STUDENTS MAY WAIVE A RIGHT UNDER THIS SECTION. A STUDENT, PARENT,  
18 OR GUARDIAN MAY NOT BE REQUIRED TO WAIVE A RIGHT UNDER THIS SECTION.

19 (H) (1) STUDENTS, PARENTS, OR GUARDIANS WHO BELIEVE THAT STUDENT  
20 RECORDS CONTAIN INACCURATE, MISLEADING, OR INAPPROPRIATE INFORMATION  
21 MAY REQUEST THAT THE RECORDS BE AMENDED BY THE COUNTY BOARD OR  
22 PUBLIC SCHOOL THAT HAS THE RECORDS.

23 (2) WITHIN A REASONABLE TIME AFTER RECEIPT OF A REQUEST TO  
24 AMEND STUDENT RECORDS, THE COUNTY BOARD OR PUBLIC SCHOOL SHALL  
25 DECIDE WHETHER TO MAKE THE AMENDMENT.

26 (3) IF THE COUNTY BOARD OR PUBLIC SCHOOL DECIDES AGAINST  
27 MAKING THE AMENDMENT, THE BOARD OR SCHOOL SHALL SO NOTIFY THE  
28 INDIVIDUAL WHO MADE THE REQUEST FOR AMENDMENT OF THE DECISION AND OF  
29 THE INDIVIDUAL'S RIGHTS FOR A HEARING.

30 (I) (1) ON REQUEST, A COUNTY BOARD OR PUBLIC SCHOOL SHALL  
31 PROVIDE AN OPPORTUNITY FOR A HEARING TO CHALLENGE THE CONTENT OF  
32 STUDENT RECORDS.

33 (2) IF, AS THE RESULT OF A HEARING, A COUNTY BOARD OR PUBLIC  
34 SCHOOL DECIDES THAT STUDENT RECORDS DO NOT NEED TO BE AMENDED, THE  
35 COUNTY BOARD OR PUBLIC SCHOOL SHALL NOTIFY THE STUDENT, PARENTS, OR  
36 GUARDIAN OF THE RIGHT TO PLACE IN THE STUDENT RECORDS A STATEMENT ON  
37 THE INFORMATION IN THE STUDENT RECORDS.

38 (3) A STATEMENT PLACED IN STUDENT RECORDS UNDER THIS  
39 SUBSECTION SHALL BE KEPT IN THE STUDENT RECORDS AS LONG AS THE MATERIAL  
40 TO WHICH THE STATEMENT RELATES IS KEPT IN THE STUDENT RECORDS. THE  
41 STATEMENT SHALL BE DISCLOSED WHENEVER THE MATERIAL TO WHICH THE  
42 STATEMENT RELATES IS DISCLOSED.

4

1 (J) THE STATE BOARD SHALL ADOPT REGULATIONS TO PROVIDE FOR  
2 HEARINGS UNDER THIS SECTION.

3 (K) A PUBLIC SCHOOL OR COUNTY BOARD MAY ONLY DISCLOSE  
4 PERSONALLY IDENTIFIABLE INFORMATION FROM STUDENT RECORDS IF:

5 (1) THE STUDENT, PARENT, OR GUARDIAN CONSENTS IN WRITING; OR

6 (2) THE DISCLOSURE IS MADE TO ANOTHER PERSON IN ACCORDANCE  
7 WITH REGULATIONS THAT THE STATE BOARD ADOPTS.

8 (L) A PUBLIC SCHOOL OR COUNTY BOARD SHALL KEEP A LOG OF REQUESTS  
9 FOR AND DISCLOSURES OF STUDENT RECORDS.

10 (M) A PUBLIC SCHOOL OR COUNTY BOARD SHALL ALLOW BOTH CUSTODIAL  
11 AND NONCUSTODIAL PARENTS TO EXERCISE THE RIGHTS GIVEN TO PARENTS  
12 UNDER THIS SECTION UNLESS THE CUSTODIAL PARENT GIVES TO THE SCHOOL OR  
13 BOARD A COPY OF A COURT ORDER OR LEGALLY BINDING INSTRUMENT THAT  
14 PROHIBITS THE NONCUSTODIAL PARENT FROM EXERCISING A RIGHT UNDER THIS  
15 SECTION.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 1996.